

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Lindsey Johnson,

Plaintiff,

vs.

Case No. 3:24-CV-232

Mayville State University,

Defendant.

SCHEDULING/DISCOVERY PLAN

Pursuant to Rule 26(f), counsel for the parties certify that on **February 6, 2025**, they conferred in person, by video, or by telephone to discuss the nature and basis of their clients' claims and defenses, the possibilities for a prompt settlement or resolution of the case, and a proposed discovery plan. After conferring in good faith, counsel for the parties have agreed upon the following:

- (1) The parties shall make by Rule 26(a)(1) initial disclosures, by **March 14, 2025**.
- (2) The parties propose the following discovery plan:
 - (a) Discovery will be needed on these subjects:
 - i. Liability;
 - ii. Damages; and
 - iii. Plaintiff and Defendant will each conduct discovery regarding relevant matters.
 - (b) Disclosure, discovery, or preservation of electronically stored information should be handled as follows:
 - i. Litigation holds were issued by Defendant.

- ii. Plaintiff has been instructed to preserve Electronically Stored Information (“ESI”) to include electronic mail messages, text messages, phone call logs, social media accounts, or other ESI.
 - iii. The parties do not anticipate that ESI will be an issue in this case. The parties agree to restrict discovery of ESI to that which is relevant (subject matter and temporal connection) to the issues in the case and to reasonably limit requests for ESI to minimize costs of retrieval and production. To the extent that either party requests ESI, the party shall do so by meeting and conferring with the other party’s counsel to discuss the parameters of a search by no later than March 28, 2025.
- (c) The parties have discussed any issues regarding preservation of discoverable information as follows:
- i. The parties have discussed methods for identifying and producing requested ESI and have agreed to the following:
 - 1. Emails will be produced in native format as “.pst” files;
 - 2. Word documents shall be produced in native format;
 - 3. Text messages may be produced manually by screen shot and if imaging is deemed necessary by either party, the parties agree to meet and confer; and
 - 4. Plaintiff’s social media will be manually reviewed by Plaintiff’s counsel and produced manually by screen capture. If native download of social media files directly from social media

servers becomes necessary the parties agree to meet and confer.

5. All other ESI shall be produced as a PDF.

6. To the extent possible, all ESI and other discovery shall be Bates stamped, either by manually stamping the PDF or indicating a Bates number in the file name (e.g., for video files).

(d) The parties have discussed possible need for a protective order as follows:
The parties may propose a stipulated protective order for the Court's consideration after the scheduling conference if needed.

(e) If this is a case that will involve the discovery of medical, mental health, employment, education, tax, or workers compensation records, the parties have agreed to the following with respect to who will secure these records and how the discovery of the records will be handled (*it will not be a sufficient answer that the parties have not addressed the issue or it will be considered later*):

i. Discovery of Plaintiff's medical or mental health records will be conducted as Plaintiff has claimed to have suffered mental and emotional harm, anguish, humiliation, embarrassment, loss of dignity, and physical harm, and has requested damages for emotional distress. ECF No. 1 ¶¶ 76, 86. Plaintiff agrees to execute

written releases for relevant employment, medical, and mental health records.

- ii. With respect to requests for tax records, Plaintiff will produce tax records that may be requested. The parties have agreed that any requests for tax records that contain non-party tax information may be subject to redaction and placed on a privilege log.

- (f) The parties have discussed privilege logs, including information to be included about documents over which privilege is asserted and any categories of documents which the parties agree need not be identified in privilege logs:

- i. The parties will prepare and produce privilege logs as appropriate.

- (g) The parties have agreed to the following maximum number of interrogatories **per party**: 25

- (h) The parties have agreed to the following maximum number of requests for admissions **per party**: 25

- (i) The parties have agreed to the following maximum number of requests for production of documents **per party**: 30

- (j) The parties have agreed to the following maximum number of depositions **per party**: 10

- (k) The parties have discussed possible need for depositions of organizations pursuant to Rule 30(b)(6) and, as required by that rule, will confer in advance of any depositions of organizations about topics on which testimony is requested.
- (l) The parties have agreed any depositions taken only for presentation at trial will be completed at least **30 days** prior to trial.
- (m) The parties have agreed that all fact discovery will be completed by the following deadline, with all discovery pursuant to Rules 33, 34, and 36 to be served a minimum of thirty-three (33) days prior to the deadline:
12/5/2025
- (n) The parties have agreed on the following deadline for discovery motions:
12/19/2025
- (o) An appropriate time for a mid-discovery status conference would be:
July 2025
- (p) The parties have agreed on the following deadlines for exchanging complete expert witness reports:
2/20/2026 for plaintiff(s);
3/27/2026 for defendant(s); and
4/17/2026 for any rebuttal experts.

(q) The parties have agreed on the following deadline to complete discovery depositions of expert witnesses:

5/15/2026

(3) The parties have agreed to the following deadlines for filing motions:

2/28/2025 motions to join additional parties;

2/28/2025 motions to amend pleadings;

2/28/2025 (filed and served) nondispositive motions relating to consolidation and bifurcation; and

7/13/2026 (filed and served) dispositive motions (e.g. summary judgment).

(4) The parties have discussed alternative dispute resolution and plan as follows:

☒ A court-hosted settlement conference;

☐ Private mediation; or

☐ Other (explain):

(5) The parties shall be ready to evaluate the case for settlement purposes by:

12/5/2025

(6) The parties **will not** waive their rights to proceed before a district judge and consent to have a magistrate judge conduct all further proceedings in the case, including the trial, and order for entry of a final judgment.

(7) Trial of this case will be **jury**.

(8) The estimated length of trial is **8** days.

Dated this 24th day of February, 2025

/s/ Jill M. Zwagerman
NEWKIRK ZWAGERMAN, P.L.C.
Jill M. Zwagerman AT0000324 (pro hac
vice-admission)
jzwagerman@newkirklaw.com Jacque
Judickas AT0015272
(pro hac vice-admission)
jjudickas@newkirklaw.com
3900 Ingersoll Ave., Suite 201
Des Moines, IA 50312
Telephone: 515-883-2000
Fax: 515-883-2004

Leo FJ Wilking (ND 03629)
Wilking Law Firm
3003 32nd Ave S., Suite 240
Fargo, ND 58103
Phone: (701) 356-6823
Fax: (701) 478-7621
lwilking@wilkinglaw.com

Attorney for Plaintiff(s)

Dated this 24th day of February, 2025

State of North Dakota
Drew H. Wrigley
Attorney General

By: /s/ Courtney R. Titus
Assistant Attorney General
State Bar ID No. 08810
Email ctitus@nd.gov

/s/ Jane G. Sportiello
Assistant Attorney General
State Bar ID No. 08900
Email jsportiello@nd.gov
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
Telephone (701) 328-3640

Attorneys for Mayville State University

ORDER

The parties' Scheduling/Discovery Plan is adopted as the Order of the Court, with the following modifications: a mid-discovery status conference is set for July 9, 2025 at 10:00 am by telephone. Plaintiff shall initiate the call. The telephone number for chambers is 701-297-7070.

Dated this 28th day of February, 2025.

/s/ Alice R. Senechal
Alice R. Senechal
United States Magistrate Judge